

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

IN RE:)	
)	
JOHN C. TOMBERLIN AND JAN)	
M. TOMBERLIN,)	
)	
Debtors.)	
)	
JOHN C. TOMBERLIN,)	
)	
Appellant,)	
)	
v.)	CIVIL ACTION NO.
)	2:17cv872-MHT
)	(WO)
MULTIBANK 2009-1 CML-ADC)	
VENTURE, LLC,)	
)	
Appellee.)	

OPINION AND ORDER

This matter is before the court on appellee Multibank 2009-1 CML-ADC Venture, LLC's motion to substitute NCP Bayou 2, LLC, as plaintiff and appellee, pursuant to Federal Rule of Civil Procedure 25(c). In the motion, Multibank requested that the court schedule a hearing on the motion so that it could serve a notice of the hearing, which it asserted was required by Rule

25(c).^{*} The court entered a show-cause order as to (1) why the motion to substitute should not be granted, and (2) whether and why the court should hold a hearing before deciding the motion. Appellant responded that he does not oppose the motion to substitute and that no hearing is needed. Appellee Multibank did not respond. Given appellant's notice of the motion and lack of opposition to the substitution, the court sees no need for a hearing. See 7C *Sullivan v. Running Waters Irrigation, Inc.*, 739 F.3d 354, 359-360 (7th Cir. 2014) (holding that district's failure to hold a hearing before granting a motion to substitute was not in error because, inter alia, a need for hearing had not been shown); *Fed. Prac. & Proc. Civ.* § 1958 (3d ed.) ("The court also may decide the motion without an evidentiary hearing if it determines it is not necessary.").

^{*} Multibank has already served the appellant with a copy of the motion to substitute by electronic means. See Fed. R. Civ. P. 5(2)(E) (allowing service by electronic means).

* * *

Accordingly, it is ORDERED that:

(1) Appellee Multibank 2009-1 CML-ADC Venture, LLC's motion to substitute (doc. no. 2) is granted.

(2) Pursuant to Federal Rule of Civil Procedure 25(c), NCP Bayou 2, LLC is substituted for Multibank 2009-1 CML-ADC Venture, LLC as appellee and plaintiff in this matter. The docket should reflect this substitution.

DONE, this the 31st day of January, 2018.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE